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between the ornament and the pedestal after the cylindrical container of cremated remains is placed in the pedestal of the lawn or garden sculpture.

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~~8. Combination lawn or garden sculpture and cremation remains container comprising:~~

~~a pedestal having an open first end, a closed second end and at least one wall interconnecting said first and second ends;~~

~~a receptacle, adapted to receive therein cremation remains, removably received in said pedestal and having an open first end, a closed second end and at least one wall interconnecting said first and second ends; and~~

~~an ornament mounted to an uppermost one of said first and second ends of said pedestal.~~

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10. The combination of claim 8 wherein said receptacle first end is an upper end and said receptacle second end is a lower end.

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11. The combination of claim 10 wherein said receptacle is a cylinder and includes a removable cover on said upper end thereof.

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13. The combination of claim 8 further comprising an annular gasket interposed and compressed between said ornament and said pedestal.

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17. Combination lawn or garden sculpture and cremation remains container comprising:

- a pedestal having an open upper end, a closed lower end and at least one wall interconnecting said upper and lower ends;
- a receptacle, adapted to receive therein cremation remains, removably received in said pedestal and having an open upper end, a closed lower end, at least one wall interconnecting said upper and lower ends and a removable cover on said upper end;
- an ornament mounted to said upper end of said pedestal; and
- an annular gasket interposed and compressed between said ornament and said pedestal.

18. The combination of claim 17 wherein said receptacle is a cylinder.

Remarks

Claims 5, 7, 14 and 16 have been canceled without prejudice, and claims 4, 8, 10, 11, 13, 17 and 18 have been amended. The courteous personal interview granted to the undersigned on November 4, 2002 is hereby noted with appreciation. Re-examination and reconsideration of the application, in view of the amendments above and the remarks below, are respectfully requested.

The Examiner rejected claims 1 and 2, and claims 1-3 and 8-11, under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, 7, 11 and 12 of U.S. Patent No. 6,175,995 and claims

1 and 5 of U.S. Patent No. 5,903,961, respectively. A Terminal Disclaimer is submitted herewith thereby obviating the obviousness-type double patenting rejection.

The Examiner rejected claims 8-20 under 35 U.S.C. §112, second paragraph, as being indefinite. In response, Applicants have amended certain of the claims to remedy this rejection.

The application includes twenty claims, of which 4 claims, claims 1, 8, 13 and 17, are independent claims. The Examiner rejected all of the claims under either 35 U.S.C. §102(b) or 35 U.S.C. §103(a) on the basis of British Patent No. 2,313,587 alone or in combination with either Virginia Metalcrafters or Janicki et al U.S. Patent No. 5,989,662, respectively.

At the personal interview, the discussion centered around British '587 and all the claims. The undersigned made the point that claims 1-3, 6, 8-12 and 15 carried an effective filing date of February 10, 1997, the filing date of application Serial No. 08/797,413, the earliest filed application in the chain of prosecution of this application. As such, British '587, which has a publication date of December 3, 1997, is not prior art as to those claims. Accordingly, the Examiner agreed to withdraw the §102(b) rejection of those claims on the basis of British '587.

Dependent claim 4, which depends from independent claim 1, dependent claim 13, which depends from independent claim 8, and independent claim 17 and its dependent claims 18-20, all relate to subject matter first disclosed in the instant continuation-in-part application. It was agreed that amending claims 4, 13 and 17 to call for the gasket to be an "annular" gasket interposed "and compressed"

between the ornament and the pedestal would overcome British '587. Accordingly, Applicant has so amended claims 4, 13 and 17.

In view of the above, it is submitted that claims 1-4, 6, 8-13, 15 and 17-20 are in a condition for allowance. Re-examination of the application is respectfully requested, and an early Notice of Allowance is earnestly solicited.

Respectfully submitted,

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